IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. REV. No.755 of 2008
RAM BRIKSHA PASWAN
Versus
THE STATE OF BIHAR & ANR
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3. 12.8.2008. This Cr. Revision has been preferred by the petitioner against the judgment dated 7.11.2007 passed by 7th Additional Sessions Judge, Bhagalpur in Cr. Appeal No. 113 of 1993 thereby the learned sessions judge has confirmed the order of conviction and sentence dated 30.8.1993 passed in T.R. No. 280 of 1993 by Sri A. K. Tiwari, Judicial Magistrate Ist Class, Naugachia.

The learned magistrate has convicted this petitioner only under Sections 144 and 448 I.P.C. and sentenced him to undergo simple imprisonment for six months only under each section. However, both the sentences have been directed to run concurrently.

Heard learned counsel for the petitioner as well as opposite party.

Supplementary affidavits have been filed by both the parties. It is submitted that in lower Court itself both the parties have entered into a compromise. They have already settled their dispute and the informant does not want to prosecute this petitioner any more. It is further submitted that they are related to each other and they will be put into serious difficulties, if the conviction order is maintained. Accordingly, the victim and the petitioner requested to condone the offences stated to have been committed by this petitioner. For the above submission they have relied upon a decision of Hon'ble Supreme Court reported in 2000(4) Crimes 40 (SC).

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Section 448 I.P.C. is compoundable; however Section 144 I.P.C. is not compoundable.

Under the facts and circumstances, it would not be appropriate to maintain conviction of this petitioner under minor section since both the parties have already settled their dispute and are also close relatives to each other. In the above cited decision, the Hon'ble Apex Court in a similar situation has set aside the conviction passed under Sections 147, 323/149 and 325/149 I.P.C.

Thus, having regard to the facts and circumstances of the case as well as the decision citied by the parties, this Cr. Revision is allowed at the admission stage itself. Impugned orders of conviction and sentence in respect of this petitioner only is hereby set aside. The petitioner is directed to be released at once, if not warranted in any other case.

Let this order be communicated through fax to the court concerned on the cost of the petitioner.

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kanchan **(Ghanshyam Prasad, J.)**